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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,727	11/08/2001	Jeffrey A. Welton	THE 0243 PUS	6142

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EXAMINER

PRICE, CARL D

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/008,727	Applicant(s) WELTON ET AL.	
	Examiner CARL D. PRICE	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims

Claims 1-7 and 10-12 are pending.

Claims 8-9 and 13-14 have been canceled.

Applicant's arguments

Applicant's arguments with respect to claims 1-7 and 10-12 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has amended the claims, by addition and deletion of language, to be of a scope not previously examined. In particular, consistent with applicant's argument that the prior art does not show and/or teach certain feature of the now claimed invention set forth in amended claims 1,2,6,7,11 and 12 which now include, for example:

- 1) a plurality of fingers (claims 1,7),
- 2) a cap having a plurality of overlapping fingers (claim 1),
- 3) each vent includes a recess (claim 2),
- 4) the lip is scalloped laterally around said wall on the interior side thereof (claim 6),
- 5) a collar and stem include a plurality of splines around the periphery thereof (claim 7),
- 6) an indexer including said plurality of splines on said collar and said stem interlocking with one another in said at least one predetermined alignment (claim 7).

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See the following prior art cited to support the rejection of the invention as now set forth in applicant's claims.

Drawings

The proposed drawing corrections filed on 05-10-2004 have been approved by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,6; Rejected under 35 U.S.C. 112

Claims 1 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, in line 4, the double recitation of "plurality plurality" should be changed to - - plurality - -.

In claim 6, there is no proper antecedent basis for "the interior side thereof".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6 are rejected under 35 U.S.C. 103(a)

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (US 2320754) in view of Le Monnier de Gouville et al.(US 4891006)

Sherman (US 2320754) shows and discloses (Figures 3,5,6,7) a burner with a plurality of fingers (24) and having a peripheral wall with a second plurality ports (30) positioned along both sides of the peripheral wall of each one of the plurality of fingers;

- a cap having a plurality of overlapping fingers (32) corresponding in number to the plurality of fingers (24) and having recess forming a lip (31) extending laterally beyond the peripheral wall.

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Sherman (US 2320754 shows and discloses the invention substantially as set forth in the claims with possible exception to a plurality flame vents connecting adjacent ports along the peripheral wall.

Le Monnier de Gouville et al.(US 4891006) teaches, from the same stove top burner field of endeavor as Sherman providing scalloped shaped (see figure 1) plurality flame vents (5b) formed in a recess (4) and connecting adjacent ports (5a) along the peripheral wall of a burner for forming a pilot flame arrangement to aide in propagating a flame between burner ports during, for example, ignition.

In regard to claims 1-6, for the purpose of aiding propagation of flames between the ports of Sherman, it would have been obvious to a person having ordinary skill in the art to modify the recess lip of Sherman to include scalloped shaped plural flame vents and connecting adjacent ports along the peripheral wall of a burner, in view of the teaching of Le Monnier de Gouville et al.(US 4891006).

Claims 7,10,11: Rejected under 35 U.S.C. 103(a)

Claims 7,10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (US 2320754) in view of Graves (US 1196230).

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Sherman (US 2320754) shows and discloses (Figures 3,5,6,7) a burner with a plurality of fingers (24) and having a peripheral wall with a second plurality ports (30) positioned along both sides of the peripheral wall of each one of the plurality of fingers;

- a cap having a plurality of overlapping fingers (32) corresponding in number to the plurality of fingers (24) and having recess forming a lip (31) extending laterally beyond the peripheral wall.

Sherman (US 2320754) shows and discloses the invention substantially as set forth in the claims with possible exception to an indexer carried by the collar and the stem limiting insertion of the stem to at least one predetermined alignment wherein the indexer aligns one upper member in the at least one predetermined alignment with the base and the indexer including a plurality of splines on the collar and the stem interlocking with one another in at least one predetermined alignment.

Graves (US 1196230) shows a burner for a cooktop comprising:

- a base (13) for mounting the burner in a cooktop (1);
- at least one upper member defining at least part a plurality of ports on each side of a plurality of fingers;
- a collar (12) carried by the base and the collar including a plurality of splines (16a) around the periphery thereof;
- a stem (15) carried by the at least one upper member and the stem including a plurality of splines (17) around the periphery thereof; and

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- an indexer (16,16a,17) carried by the collar and the stem limiting insertion of the stem to at least one predetermined alignment, the indexer aligning the at least one upper member in the at least one predetermined alignment with the base, the indexer including the plurality of splines on the collar and the stem interlocking with one another in the at least one predetermined alignment.

In regard to claims 7, 10 and 11, for the purpose of providing different positions relative to the top of the stove, it would have been obvious to a person having ordinary skill in the art to provide Sherman with an indexer carried by a collar and a stem limiting insertion of the stem to at least one predetermined alignment wherein the indexer aligns one upper member in the at least one predetermined alignment with the base and the indexer including a plurality of splines on the collar and the stem interlocking with one another in at least one predetermined alignment, in view of the teaching of Graves. In regard to claim 10, Official Notice is taken that it is well known to provide burners with ignition elements aligned with one adjacent flame port to ensure ignition of a burner flame. Thus, in view of that which is well known in the art of burners, it would have been obvious to a person having ordinary skill in the art to provide Sherman with an ignition means aligned with one adjacent flame port.

Claims 12: rejected under 35 U.S.C. 103(a)

Claims 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (US 6299436) in view of Saleri (US6030207) and .

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Huang shows and discloses (figure 2) a including a body with a plurality of fingers, a burner head with a central (22) and peripheral wall (28), a base (50) including a first indexer (43) and a burner cap (40) including a plurality of spline shaped second indexers (36) for alignment of the cap with the burner head. Huang however does not disclose an igniter mounted in the burner base (50).

Huang (US 6299436) shows and discloses the invention substantially as set forth in the claims with possible exception to 1) an indexer carried by the collar and the stem limiting insertion of the stem to at least one predetermined alignment wherein the indexer aligns one upper member in the at least one predetermined alignment with the base and the indexer including a plurality of splines on the collar and the stem interlocking with one another in at least one predetermined alignment, and 2) ignition element in a predetermined alignment with a burner head port (4) and mounting the element in a burner base.

Graves (US 1196230) shows a burner for a cooktop comprising:

- a base (13) for mounting the burner in a cooktop (1);
- at least one upper member defining at least part a plurality of ports on each side of a plurality of fingers;
- a collar (12) carried by the base and the collar including a plurality of splines (16a) around the periphery thereof;
- a stem (15) carried by the at least one upper member and the stem including a plurality of splines (17) around the periphery thereof; and

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an indexer (16,16a,17) carried by the collar and the stem limiting insertion of the stem to at least one predetermined alignment, the indexer aligning the at least one upper member in the at least one predetermined alignment with the base, the indexer including the plurality of splines on the collar and the stem interlocking with one another in the at least one predetermined alignment.

Salieri teaches, from the same cooktop burner field of endeavor as Huang, positioning an ignition element in a predetermined alignment with a burner head port (4) and mounting the element in a burner base (1).

In regard to claim 12, for the purpose of providing different positions relative to the top of the stove, it would have been obvious to a person having ordinary skill in the art to provide Huang with an indexer carried by a collar and a stem limiting insertion of the stem to at least one predetermined alignment wherein the indexer aligns one upper member in the at least one predetermined alignment with the base and the indexer including a plurality of splines on the collar and the stem interlocking with one another in at least one predetermined alignment, in view of the teaching of Graves. Also, for the purpose of providing suitable and reliable igniter for the burner, it would have been obvious to a person having ordinary skill in the art to modify the base (50) of Huang to include an ignition element mounted therein and aligned with a flame port, in view of the teaching of Salieri.

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Conclusion

See the attached PTO FORM for prior art made of record that is not relied upon, which is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

USPTO CUSTOMER CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CARL D. PRICE** whose telephone number is 703-308-1953. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CARL D. PRICE
Primary Examiner
Art Unit 3749

Cp